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MARKETS

More Swiss Banks Join U.S. Disclosure Program

State-Backed Banks to Identify Undeclared U.S. Assets

By John Letzing and John Revill

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More than half of Switzerland's publicly backed cantonal banks have now said they will participate in a U.S. program designed to identify lenders that aided tax evasion, significantly widening an American legal net across the Alpine country's taxpayer-funded institutions.

On Monday, banks from 12 cantons, which are similar to U.S. states, said they would take part in a U.S. Justice Department program to identify undeclared American assets held in Switzerland. The banks are in the cantons of Geneva, Glarus, Zug, Schwyz, Aargau, Appenzell, Vaud, St. Gallen, Nidwalden, Graubünden, Obwalden and Lucerne.



The disclosures follow last week's

Vontobel is among Swiss banks saying it will take part in the program. REUTERS

announcement that Bern's cantonal bank will participate in the program, as will PostFinance, a publicly supported banking arm of the Swiss postal system. Two other cantonal banks in Zurich and Basel are under active investigation by the Justice Department for allegedly aiding U.S. tax evasion and therefore are unable to participate in the program, which offers forms of legal closure but may also include significant fines.

The program has proved controversial in Switzerland because it might saddle banks that only passively accepted U.S. accounts with heavy legal costs, and has pressured local lenders and their employees to expose themselves to potential penalties under U.S. law. Under the program, banks apply under a category that determines the level of their penalty, if any.

Category 2 banks expect they will disclose undeclared U.S. accounts and pay fines, while banks in the third and fourth categories will attempt to prove

they haven't helped Americans evade taxes.

A large portion of Switzerland's roughly 300 banks are expected to take part in the program, which was announced in August and has lenders scrutinizing individual accounts held by Americans containing at least \$50,000. Other banks that have stated they will participate in the Justice Department's disclosure program include Raiffeisen, Valiant Bank, Vontobel, Migros Bank and Bank Coop. Not all participating banks are expected to publicly disclose their intentions.

Banks had until early last week to inform Switzerland's financial regulator if they would participate in the program and in which category. Lenders applying under category 2 have until the end of this month to inform U.S. officials, while those in categories three and four have a window of between July and October of next year in which to inform the U.S. of their plans.

The program is a significant element in the continuing U.S. move against Switzerland's banking secrecy, a nearly 80-year-old legal practice in this country that has helped Americans and clients from other countries conceal assets from tax authorities back home. While participating banks will refrain from handing over client names, U.S. authorities are expected to be able to use data provided through the program to identify individual tax evaders.

Swiss officials have made it clear to the country's banks that it is in their interest to endure whatever penalties that may result from the Justice Department's program, rather than avoid the program and run the risk of incurring an investigation or even an indictment. Wegelin & Co., once the country's oldest bank, was indicted last year and has ceased operations.

Eight of the 11 cantonal banks stating their intentions for the program Monday said they would apply under category 2. Banks in this category could face fines equal to as much as 50% of the undeclared U.S. assets on their books, but may also receive nonprosecution agreements.

Geneva's cantonal bank said it would apply under category 2 because it "cannot guarantee that all American customers have met their tax obligations." Four cantonal banks said Monday they will apply under category 4, which is for lenders that primarily deal with a local clientele and are unlikely to have taken in many U.S. accounts.

Switzerland has 24 cantonal banks, most of which have a full guarantee that the government will assume their liabilities if they fail.

In addition to the cantonal banks from Zurich and Basel, other banks already under active investigation by the Justice Department for allegedly aiding tax evasion include Credit Suisse Group AG and Julius Baer Group AG. Those banks are expected to eventually settle their outstanding issues with U.S. law enforcement and may face significant fines.

UBS AG, the country's biggest bank, reached a nonprosecution agreement with the DOJ in 2009, acknowledged helping Americans evade taxes and agreed to pay \$780 million in fines. The U.S. prosecution of UBS helped kick

off what has been a prolonged, costly trans-Atlantic legal battle over tax evasion that is likely to drag on further.

While Swiss banks participating in the Justice Department's disclosure program will all have notified American officials of their plans by next year, their individual treatment under U.S. law is likely to be varied and may require a significant amount of time to reach a resolution, experts have said.

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